

ORIGINAL

cc: KSC

KENJI M. PRICE #10523  
United States Attorney  
District of Hawaii

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

OCT 17 2018

at 3 o'clock and 00 min. 0 M  
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LJS

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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	Mag. No. 18-01161 KSC
	)	
Plaintiff,	)	CRIMINAL COMPLAINT;
	)	AFFIDAVIT IN SUPPORT OF
v.	)	CRIMINAL COMPLAINT
	)	
Martin HERNANDEZ-	)	
VILLALOBOS,	)	
aka Jose Juan ENCINAS-DIAZ,	)	
aka Armando HERNANDEZ-	)	
GONZALEZ,	)	
Defendant.	)	
	)	

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**CRIMINAL COMPLAINT**


I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

COUNT 1

On or about October 5, 2018, in the District of Hawaii, the defendant, Martin HERNANDEZ-VILLALOBOS, an alien, was found in the United States after having been removed from the United States on or about September 1, 2009, and not having obtained the express consent of the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4), and 557) for re-application by the Defendant for admission into the United States.

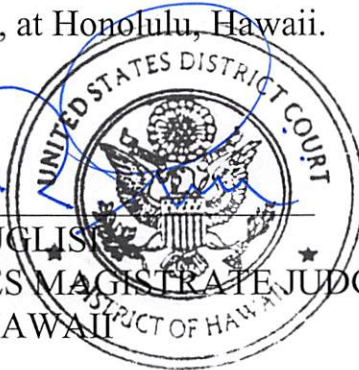
In violation of Title 8, United States Code, Section 1326(a).

I further state that I am a Special Agent of the Department of Homeland Security, Homeland Security Investigations (HSI) and that this Complaint is based upon the facts set forth in the following affidavit, which is attached hereto and made part of this Complaint by reference.

  
Cory B. Hokama, Special Agent  
Homeland Security Investigations

Subscribed to and sworn before me on  
October 17, 2018, at Honolulu, Hawaii.

  
RICHARD L. PUGLISI  
UNITED STATES MAGISTRATE JUDGE  
DISTRICT OF HAWAII



**AGENT'S AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Cory B. Hokama, after being duly sworn, deposes and states as follows:

1. I am a "law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), who is empowered by law to conduct investigations, and make arrests.
2. I am a Special Agent with the Department of Homeland Security, Immigration and Customs Enforcement (ICE) – Homeland Security Investigations (HSI), currently assigned to the Special Agent in Charge (SAC), Honolulu Office. I have been employed as a Special Agent since 2008. I am currently assigned to the National Security Group which is responsible for investigating vulnerabilities in the nation's border, infrastructure, and economic and transportation systems. In the course of my duties, I have investigated, apprehended, and prepared for prosecution cases against persons who have illegally entered the United States which are criminal violations set forth in the Immigration and Nationality Act.
3. The information contained in this affidavit was derived from (1) personal investigative knowledge; (2) information related to me by other law enforcement officers associated with this investigation; and (3) from witnesses with personal knowledge of the events they have told me; (4) and from information obtained from official records and alien file A## ### 563. This affidavit summarizes this information but does not attempt to provide each and every factual detail discovered during this investigation. The information set forth herein is to establish that probable cause exists to arrest Martin HERNANDEZ-VILLALOBOS, aka Jose Juan ENCINAS DIAZ, aka Armando HERNANDEZ GONZALEZ, (hereinafter "HERNANDEZ-VILLALOBOS"), for violating of Title 8, United States Code, Section 1326(a).
4. HERNANDEZ-VILLALOBOS came to the attention of Immigration and Customs Enforcement (ICE), Enforcement Removal Operations (ERO) Honolulu Officers (ERO) pursuant to his arrest by the Maui Police Department (MPD) in 2017 for driving without a license. On or around June 20, 2017, HERNANDEZ-VILLALOBOS was arrested by MPD for driving without a license. On August 16, 2017, HERNANDEZ-VILLALOBOS was found guilty and ordered to pay \$100 fine.

5. On October 5, 2018, ERO Honolulu Officers, administratively arrested HERNANDEZ-VILLALOBOS in Lahaina, Hawaii for being present in the United States without authorization. Later that day, HERNANDEZ-VILLALOBOS was transported from Maui to ERO's Office located in Honolulu, where he was fingerprinted, photographed, and served with a Notice of Intent/Decision to Reinstate the Prior Order of removal (Form I-871). HERNANDEZ-VILLALOBOS was later transported to the Honolulu Federal Detention Center (FDC) after processing by ERO.

6. On October 9, 2018, ERO brought HERNANDEZ-VILLALOBOS from the FDC to their office where Homeland Security Investigations (HSI) Honolulu Special Agents met with HERNANDEZ-VILLALOBOS and asked him if he was willing to provide a Sworn Statement (Form I-215). HERNANDEZ-VILLALOBOS agreed. The agents asked HERNANDEZ-VILLALOBOS in what language he wanted the interview. HERNANDEZ-VILLALOBOS stated that he preferred Spanish. Before the agents asked HERNANDEZ-VILLALOBOS any questions, they read HERNANDEZ-VILLALOBOS his Miranda rights with the assistance of a Spanish-speaking interpreter. HERNANDEZ-VILLALOBOS waived his rights by putting initials next to each sentence and agreed to answer questions posed by the agents without an attorney present. The following information is a portion of the video-recorded statement given by HERNANDEZ-VILLALOBOS:

Q. Do you understand your rights?

A. Yes.

Q. Are you willing to answer my questions at this time without a lawyer present?

A. Yes.

Q. Do you swear that all the statements you are about to make will be the truth, the whole truth and nothing but the truth, so help you God?

A. Yes.

Q. What is your true and correct name?

A. Martin HERNANDEZ-VILLALOBOS.

Q. Have you ever used any other names?

A. No.

Q. Of what country are you a citizen and are you a citizen of any other country?

A. I am only a citizen of Mexico.

Q. What is your date and place of birth?

A. August 15, 1965, Jalisco, Mexico.

Q. What is your father's name and citizenship?

A. Jesus HERNANDEZ, Mexico.

Q. What is your mother's name and citizenship?

A. Trinidad VILLALOBOS, Mexico.

Q. Do your parents claim citizenship to any other country?

A. No.

Q. Is this your Mexican passport? And is the information in this passport true and correct? (Shown photocopy of passport number G#####12)

A. Yes, that is my passport with my information. I got passport from the Consular in San Francisco and then came to Maui.

Q. Do you recall that in or around August 31, 2009, you were administratively arrested and served with a Notice and Order of Expedited Removal by CBP Officers at or near San Ysidro Port of Entry? (Shown photocopy of Form I-860)

A. Yes.

Q. Do you recall that on or about September 1, 2009, you left the United States and crossed the border back into Mexico at or near San Ysidro, California? (Shown photo copy of Form I-296)

A. Yes. That is my photo, thumbprint, and signature.

Q. Do you recall that you were not supposed to return to the United States without authorization from Homeland Security for a period of 5 years? (Shown photo copy of Form I-296 which includes a five year prohibition

from entering the United States)

A. No, I did not know that, no one told me. They just gave me a bag and I returned to Mexico.

Q. When did you last enter the United States?

A. I last entered in 2010 by California.

Q. How and where did you enter the United States at that time?

A. I came across the border on foot with some friends. I came, and I stayed in California for 2-3 days before coming to Hawaii.

Q. Aside from this last entry, how many times have you entered the United States without authorization?

A. I entered one other time before this last time.

Q. Have you ever worked for Hawaii Care and Cleaning Inc. located in Lahaina, Hawaii?

A. Yes, for a short period.

Q. Do you recognize this Employee Eligibility Form I-9? Is this your signature and date April 5, 2010? (Shown Form I-9 from Hawaii Care and Cleaning Inc.)

A. Yes, that is my signature.

Q. Did you fill out this form? (Shown Form I-9 from Hawaii Care and Cleaning Inc.)

A. Yes, I filled out the top portion of the form.

Q. Did you present a Social Security Card with the number ###-##-1643? And does this number belong to you? If not, where did you get this number? (Shown Form I-9 from Hawaii Care and Cleaning Inc.)

A. I do not remember the card or that number.

Q. Did you also present a Lawful Permanent Resident Card with the number A## ### 196? And does this number belong to you? If not, where did you get this number? (Shown Form I-9 from Hawaii Care and Cleaning Inc.)

A. I do not remember the card or that number.

Q. Have you ever applied to the Attorney General of the United States or the Secretary of Homeland Security for permission to re-enter the United States after you were deported, excluded, or removed from the United States?

A. No.

Q. Have you ever applied for or have any current petitions or applications with the United States Citizenship and Immigration Services?

A. No.

Q. Are you aware of any petitions or applications with the United States Citizenship and Immigration Services on your behalf?

A. No.

Q. Do you understand that if you have been previously ordered deported, you may be prosecuted for re-entry into the United States after deportation under Title 8, United States Code Section 1326? If convicted of re-entry or attempted re-entry into the United States, you may be imprisoned for up to (20) twenty-years and be fined up to \$250,000 (This may result in further detention after your deportation becomes final.)

A. Yes, I understand now.

Q. Did you understand the questions that were just asked to you?

A. Yes.

Q. Are there any corrections that you would like to make?

A. No.

Q. Is there anything else you would like to say at this time?

A. No, I do not know my situation.

7. HSI SA Bumanglag and HSI SA Feeley reviewed HERNANDEZ-VILLALOBOS' statement with him and gave HERNANDEZ-VILLALOBOS the opportunity to make any corrections or additions. HERNANDEZ-VILLALOBOS did not have any questions, corrections, or additions to make to his sworn statement and on October 9, 2018, HERNANDEZ-VILLALOBOS signed his statement. Later that day, ERO officers transported HERNANDEZ-VILLALOBOS back to the Honolulu FDC.

### Immigration History

8. A review of HERNANDEZ-VILLALOBOS alien file number A## ### 563 revealed that HERNANDEZ-VILLALOBOS is a male citizen and national of Mexico born in 1965. On or around April 6, 2003, HERNANDEZ-VILLALOBOS was encountered at or near Nogales, Arizona by Border Patrol Agents and was processed under the name Armando HERNANDEZ-GONZALEZ. HERNANDEZ-VILLALOBOS was given a voluntary departure back to Mexico.

9. On or around August 31, 2009, HERNANDEZ-VILLALOBOS applied for admission into the United States from Mexico through the pedestrian primary lanes of the San Ysidro Port of Entry by presenting a fraudulent DSP-150 (B1/B2 Visa/Border Crossing Card), bearing a name different from HERNANDEZ-VILLALOBOS. HERNANDEZ-VILLALOBOS was then referred for more questioning and in a statement to Customs and Border Protection Officers (CBP), HERNANDEZ-VILLALOBOS admitted that he was not the person as identified on the Border Crossing Card, which had the name Jose Juan ENCINAS-DIAZ. HERNANDEZ-VILLALOBOS was found inadmissible to the United States and was given a Notice and Order of Expedited Removal (Form I-860), which stated that he was banned from entering the United States without permission for a five-year period.

10. On September 1, 2009, CBP Officers verified HERNANDEZ-VILLALOBOS' removal from the United States via foot to Mexico at or near San Ysidro Port of Entry, California (Form I-296).

11. On or around September 5, 2009, HERNANDEZ-VILLALOBOS was encountered attempting to enter the United States by Border Patrol Agents at or near Campo, California. On September 5, 2009, HERNANDEZ-VILLALOBOS was given a voluntary departure.

12. On October 17, 2018, HSI Honolulu was provided with a Certificate of Nonexistence of Record relating to file number A## ### 563, "Martin HERNANDEZ-VILLALOBOS." The Nonexistence of Record states that after a diligent search was performed in Citizenship and Immigration Services databases, no record was found to exist indicating that the subject, HERNANDEZ-VILLALOBOS, obtained consent to enter the United States from the Attorney General of the United States or from the Secretary of the Department of Homeland



Security, for re-admission in the United States in accordance with the 6 U.S.C. §§ 202 (3) and (4) and 557.

13. Based on the facts described above, and on my training and experience, I submit that there is probable cause to arrest the defendant Martin HERNANDEZ-VILLALOBOS, for violating Title 8, United States Code, Section 1326(a).

FURTHER AFFIANT SAYETH NAUGHT.



Cory Hokama  
Special Agent  
Homeland Security Investigations

This Criminal Complaint and Agent's Affidavit in support thereof were presented to, approved by, and probable cause to believe that the defendant above-named committed the charged crime found to exist by the undersigned Judicial Officer at 1454 m. on October 17, 2018.

Subscribed and sworn to before me, this 17th day  
of October 2018, at Honolulu, Hawaii



RICHARD L. PUGLISI  
UNITED STATES MAGISTRATE JUDGE  
DISTRICT OF HAWAII

